

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)
 Plaintiff,)
vs.))
))
1)CHARLES O. DUCKETT, a.k.a. Charles)
Duckett, a.k.a. Charles Otis Duckett;)
2)EVELYN D. DUCKETT, a.k.a. Evelyn Deloris)
Duckett, a.k.a. Evelyn Duckett, deceased, the)
unknown heirs, executors, devisees, trustees and)
assigns of Evelyn Deloris Duckett, deceased;)
3)MARCUS DUCKETT;)
4)KATIE DUCKETT;)
5)CAPITAL ONE BANK;)
6)FORD MOTOR CREDIT CORPORATION;)
7)ERIN CAPITAL MANAGEMENT, LLC;)
8)COLLINS FINANCIAL SERVICES, INC.;)
9)NCO PORTFOLIO MANAGEMENT)
CAPITAL ONE;)
10)STATE OF OKLAHOMA, ex rel)
Department of Human Services;)
 Defendants.)

CIV 10-084-FHS

REPORT AND RECOMMENDATION

Now on July 9, 2014, the undersigned Magistrate Judge takes under consideration the motion of plaintiff for confirmation of the sale of real estate made by the United States Marshal for the Eastern District of Oklahoma on February 18, 2014, under a Special Execution and Order of Sale issued out of the office of the Clerk of the United States District Court for the Eastern District of Oklahoma directing the sale of the following described real estate and premises situated and being in McCurtain County, Oklahoma, to-wit:

All that part of Lots 1 and 2 and the E2 of the NW4 of Section 7, Township 8 South, Range 24 East of the IBM, according to the United States survey thereof described as follows:

Tract #1-A - The SW4 of the NE4 of the NW4 and;

Tract #1-B - The Southeast 10 acres of Lot 1;

Tract #2 - The S2 of the West 18.77 acres of Lot 1 of said Section 7, LESS AND EXCEPT; Begin at the Southwest Corner of Said Lot 1; thence East 300 feet; thence North 150 feet; thence West 300 feet; thence South 150 feet to the POB;

Tract #3-A - All that part of NE 10 acres of Lot 1 of said Section 7, Described as follows:

Begin 30 feet West and 210 feet South of the Northeast corner of Lot 1 of said Section 7; thence West 420 feet; thence South 420 feet; thence East 420 feet; thence North 420 feet to the POB;

Tract #3-B - All that part of Lot 1 of said Section 7 described as follows: Begin at the SE corner of the Northeast 10 acres of said Lot 1; thence North 30 feet; thence West 450 feet; thence South 30 feet; thence East 450 feet to the point of beginning.

Tract #4 - The East 18.80 acres of Lot 2 of said Section 7; (a.k.a. E2 SE4 NW4) AND also SE4 NW4 of said Section 7, LESS AND EXCEPT All that part of the East 18.80 acres of Lot 2 and the SE4 NW4 of said Section 7 described as follows: Begin at the SW Corner of the NW4 of the SE4 of the NW4 of said Section 7; thence North 89°52'21" East 263.94 feet; thence North 00°03'02" West 369.15 feet; thence South 89°52'21" West 590 feet; thence South 00°03'02" East 369.15 feet; thence North 89°52'21" East 326.06 feet to the POB;

Tract #6 - All that part of S2 NE4 of Section 7, Township 8 South, Range 24, described as follows: Begin 765.6 feet west of the southeast corner of NE4 of said Section 7; thence North 1156.9 feet; thence West 1874.4 feet; thence South 1156.9 feet; thence East 1874.4 feet to the POB.

The undersigned Magistrate Judge has examined the proceedings of the United States Marshal under the Special Execution and Order of Sale, as well as the objections filed by Mr. Charles Duckett regarding two tracts of land [Docket No. 150]. Additionally, the undersigned Magistrate held a hearing on the Motion to Confirm the sale, and Mr. Duckett provided additional testimony regarding his objections. The undersigned Magistrate Judge now finds that the defenses set forth by Mr. Duckett could have and should have been raised prior to the Amended Journal Entry of Judgment [Docket No. 102] entered on May 16, 2012, and therefore should not be entertained absent an appropriate Motion to set aside the default judgment. Additionally, the undersigned Magistrate Judge finds that due and legal notice of the sale was given by publication once a week for at least four weeks prior to the date of sale in the McCurtain Gazette, a newspaper published and of general circulation in McCurtain County, Oklahoma, as appears more fully from the proof of publication filed herein, and that on February 18, 2014, the property was sold to Larry and Laura Brinkley, for the sum of \$216,000.00, being the highest and best bidder. The undersigned Magistrate Judge further finds that the sale was in all respects in conformity with the law and judgment of this Court.

IT IS THEREFORE RECOMMENDED that the United States Marshal's Sale and all proceedings under the Order of Sale are hereby approved and confirmed and that the United States Marshal for the Eastern District of Oklahoma make and execute to the purchaser, Larry and Laura Brinkley, a good and sufficient deed for the property.

IT IS FURTHER RECOMMENDED that after the execution and delivery of the Deed to the purchaser by the United States Marshal, the purchaser is hereby granted possession of the property against any or all persons now in possession.

IT IS FURTHER RECOMMENDED that the proceeds of the sale conducted herein be disbursed by the United States Marshal for the Eastern District of Oklahoma as follows:

FIRST: To the payment of costs of this action in
the amount of \$3,350.43

Service by publication \$1,040.76

Appraisers fees \$ 600.00

Publication of Notice of sale \$1,496.52

Publication of Notice of Hearing \$ 213.15

SECOND: The sum of \$3,106.60
to the U.S. Marshal Service for
fees & mileage

THIRD: The sum of \$209,542.97
Payable to US Department of Justice
in partial satisfaction of plaintiff's
judgment of \$279,306.12
which includes:

Unpaid principal of \$274,920.10
Interest to judgment & sale \$4,386.77

FOURTH: The residue, if any, to be paid to
the Clerk of this court to abide
the further order of the court.

IT IS SO ORDERED this 9th day of July, 2014.



Steven P. Shreder
United States Magistrate Judge
Eastern District of Oklahoma